

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 1486 – HB 1539

February 22, 2014

SUMMARY OF ORIGINAL BILL: Authorizes Industrial Loan and Thrift (TILT) companies to charge a nonrefundable convenience fee, in addition to any other interest and fees allowed by law, to offset the cost of accepting loan payments by electronic means, and requires them to make available to borrowers the option to make payments directly by check, cash, or money order, without the imposition of the convenience fee. Authorizes such companies to charge a bad check charge for any electronic payments not paid or honored by a bank or other depository institution on which such payments are drawn.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

IMPACT TO COMMERCE OF ORIGINAL BILL:

Increase Business Revenue – Exceeds \$52,100

Jobs Impact – Any increase in the number of private sector jobs in Tennessee is considered not significant.

SUMMARY OF AMENDMENT (012779): Establishes that the convenience fee collected by a registrant may not exceed the average of the actual costs incurred for the various types of electronic payments for which the registrant imposes a convenience fee, if the convenience fee imposed is in lieu of the actual cost incurred by the registrant for the individual payment. Requires TILT companies charging a convenience fee to notify the customer of the amount of the fee prior to completing a transaction, and provide an opportunity for the customer to cancel the transaction without incurring a fee. Prohibits such companies to charge a convenience fee on any debit card or prepaid card transaction if the payment card network on which the transaction is initiated or processed prohibits such convenience fee by contract, rule or policy.

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FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

Assumptions for the bill as amended:

- The Department of Financial Institutions will ensure compliance with the provisions of this bill as amended during regular examinations of TILT companies.
- Any regulatory or fiscal impact on the Department will not be significant and can be accommodated within existing resources.

IMPACT TO COMMERCE WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

Assumptions for the bill as amended:

- According to the Department of Financial Institutions, as of March 31, 2013, the Department regulated 1,043 TILT companies.
- According to the Department's 2012 annual report, the average amount of net receivables per location was \$2,875,757. It is assumed that, beginning with FY14-15, each TILT location will receive on average \$2,500,000 annually in loan payments. The total recurring amount of net receivables is estimated to be \$2,607,500,000 ($1,043 \times \$2,500,000$).
- At least one percent of total payments, or \$26,075,000, will be made by a credit card, debit card, electronic funds transfer, electronic check, or other electronic means.
- The average actual cost incurred by TILT companies for accepting these types of payments is estimated to be one percent of the amount paid.
- At least 20 percent of TILT companies currently make available the option to make a payment by electronic means and will, upon passage of this bill as amended, impose a convenience fee of one percent.
- The total recurring increase in business revenue is estimated to exceed \$52,150 ($\$26,075,000 \times 20.0\% \times 1.0\%$).
- Any decrease in the quantity demanded of services provided by TILT companies, resulting from imposition of the convenience fee, is estimated to be not significant.
- Any increase in business revenue from additional bad check charges is estimated to be not significant.
- Any increase in the number of private sector jobs in Tennessee is considered not significant.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "Lucian D. Geise". The signature is fluid and cursive, with the first name "Lucian" written in a larger, more prominent script than the last name "Geise".

Lucian D. Geise, Executive Director

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